REMARKS/ARGUMENTS

This Amendment is in response to the Office Action mailed August 22, 2006. Claims 19-27 were pending in the present application. This Amendment amends claims 19, 23, and 27 and adds new claims 28-40, leaving pending in the application claims 19-40. Reconsideration of the rejected claims and consideration of the newly presented claims is respectfully requested.

I. Rejection under 35 U.S.C. §103

Claims 19, 20, 22-24, 26 and 27 are rejected under 35 U.S.C. §103(a) as being obvious over *Burgess* (U.S. 5,796,633), in view of *Hasbun* (U.S. Patent 6,311,290) and further in view of *Chong* (U.S. Provisional Application 60/392,022). Applicants respectfully submit that these references do not teach or suggest each element of these claims.

For example, Applicants' claim 19 as amended recites a performance data management method for delaying occurrence of overflow of performance data of a computer system which includes an information processing device and at least one storage system, each of which includes a controller and a storage area, the method executed by the controller comprising:

> **inputting**, from the information processing device, **data acquisition levels each of which defines items of performance data** according to each of the data acquisition levels;
> **detecting an amount of free space** of the storage area;
> **calculating an amount of performance data** according to each of the data acquisition levels;
> acquiring performance data from the computer system;
> **selecting, before each storing of the acquired performance data, a data acquisition level according to the detected amount of free space** by comparing the calculated amount of performance data of each of the data acquisition levels with the amount of free space when an amount of the acquired performance data is more than the detected amount of free space; and
> selecting, from the acquired performance data, performance data of data items corresponding to the selected data acquisition level to store the selected performance data to the storage area

(*emphasis added*). Such limitations are neither taught nor suggested by these references.

For example, *Burgess* teaches a method for monitoring the performance of a computer coupled to a computer network, including generating an alert when the performance of the computer has reached an "alertable level" (col. 2, lines 21-26). An alert thread monitors various performance counters for the computer, calculates performance values for those counters, and

compares those values to predetermined thresholds (col. 6, lines 47-50). If the comparison indicates that the computer has reached an alertable level, the alert thread generates an alert (col. 6, lines 50-56). In one example, the alert thread monitors the percentage of free space remaining on each logical disk associated with the computer and generates an alert when the percentage of free space is less than five percent (col. 7, lines 11-19). *Burgess* does not teach or suggest detecting an amount of free space and then changing the data acquisition level based on the amount of free space in order to prevent data overflow before the overflow actually occurs, instead generating an alert when the amount of free space is less than a certain threshold. *Burgess* therefore cannot render obvious Applicants' claim 19.

Hasbun does not make up for the deficiencies in *Burgess* with respect to Applicants' claim 19. *Hasbun* teaches methods for managing memory, including using a memory manager for allocation, writing, reading, de-allocating, re-allocating, and reclamation processes (col. 2, lines 34-44). During the managing process, *Hasbun* compares the amount of available space (N) with the amount of required space (M), which is the amount needed to store the entire portion of the object, such that if N>=M the object is copied to the available space and if N<M then as much of the portion as possible within the current block is copied to the available space (col. 26, lines 12 to 34). The remainder then is copied to available space in a reclaim block (col. 26, lines 31-34). *Hasbun* does not teach or suggest detecting an amount of free space and then changing the data acquisition level based on the amount of free space in order to prevent data overflow before the overflow actually occurs, along with the other limitations of claim 19, instead copying any overflow to a separate reclaim block. *Hasbun* therefore cannot render obvious Applicants' claim 19, either alone or in combination with *Burgess*.

Chong does not make up for the deficiencies in *Burgess* and *Hasbun* with respect to claim 19. *Chong* teaches monitoring the performance of applications running on a server, including prompting the user to select information to be monitored, monitoring application performance in accordance with the selected information, and making the monitored performance information available to the user (paragraph [0003]). In one embodiment, a user is provided with at least two choices as to a level of monitoring, referring to the amount and nature of information to be obtained (paragraph [0013]). Each monitoring level has information that is

monitored and reported to the user (paragraph [0014]). *Chong* does not, however, teach or suggest detecting an amount of free space and then changing the data acquisition level based on the amount of free space in order to prevent data overflow before the overflow actually occurs, along with the other limitations of claim 19. *Chong* therefore cannot render obvious Applicants' claim 19, or the claims that depend therefrom, either alone or in any combination with *Burgess* and *Hasbun*. Independent claims 23 and 27 recite limitations that similarly are neither taught nor suggested by these references, for reasons including those set forth above, such that these claims and the claims that depend therefrom also cannot be rendered obvious by *Burgess*, *Hasbun*, and *Chong* either individually or in any combination.

Claims 21 and 25 are rejected under 35 U.S.C. §103(a) as being obvious over *Burgess*, in view of *Hasbun* and *Chong*, and further in view of *Voigt* (US 5,463,776). Claims 21 and 25 depend from claims 19 and 23, respectively, which are not rendered obvious by *Burgess*, *Hasbun* and *Chong* as discussed above. *Voigt* does not make up for the deficiencies in these references with respect to these claims. *Voigt* teaches a disk management system which converts inefficiently used disk space to efficiently used disk space and free space, and which uses an ordering system for allocating disk space among consumers (col. 3, lines 14-30), and is cited as teaching attempting to create free space until the amount of free space is equal to an upper threshold amount of free space (OA p. 8). Such teaching would not make up for the deficiencies in these references with respect to claims 21 and 25, however, as *Voigt* fails to teach or suggest detecting an amount of free space and then changing the data acquisition level based on the amount of free space in order to prevent data overflow before the overflow actually occurs, along with the other limitations of claims 21 and 25. As such, Voigt cannot render obvious Applicants' claims 19 and 23, or dependent claims 21 and 25, either alone or in any combination with *Burgess*, *Hasbun* and *Chong*.

Applicants therefore respectfully request that the rejections with respect to claims 19-27 be withdrawn.

II. Amendment to the Claims

Unless otherwise specified, amendments to the claims are made for purposes of clarity, and are not intended to alter the scope of the claims or limit any equivalents thereof. The amendments are supported by the specification and do not add new matter.

III. Newly Presented Claims

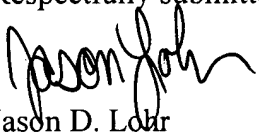
Claims 28-40 have been added to cover different aspects of the present invention. These claims are supported by the specification and do not add new matter. Applicants therefore respectfully request consideration of newly presented claims 28-40.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,



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Attachments
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